

## Panama Canal Commission

3516.000

foreign (including Panama) prime contractors and subcontractors.

### 3515.804 Cost or pricing data.

#### 3515.804-2 Requiring certified cost or pricing data.

When determining the contract amount for purposes of applying the dollar threshold at FAR 15.804-2(a) for requesting certified cost or pricing data, the value of the contract shall include any priced options. Exercise of a priced option is not considered a price adjustment and does not require submission of cost or pricing data.

#### 3515.804-3 Exemptions from or waiver of submission of certified cost or pricing data.

All findings rendered pursuant to FAR 15.804-3 (b)(2)(iii) and (c)(8) shall be approved by the cognizant HCA with the concurrence of the General Counsel. The exemptions permitted under FAR 15.804-3(g) and the waivers permitted under FAR 15.804-3(i) shall be authorized by the cognizant HCA with the concurrence of the General Counsel.

#### 3515.804-6 Procedural requirements.

For requests for proposals or modifications not exceeding \$25,000, the contracting officer may require contractors to submit information for cost or price analysis on Panama Canal Form No. 6122, Cost Breakdown, at 3553.215.

### Subpart 3515.9—Profit

#### 3515.902 Policy.

(a) The Commission shall use a structured approach to determine the profit or fee prenegotiation objective in acquisition actions of \$500,000 or more that require cost analysis based on the profit analysis factors in FAR 15.905.

(b) The following types of acquisitions are exempt from the requirements of the structured approach, but the contracting officer shall comply with FAR 15.905-1 when analyzing profit for these contracts or actions:

- (1) All actions which do not require cost analysis;
- (2) Architect-engineer contracts;
- (3) Construction contracts;

(4) Contracts primarily requiring delivery of material supplied by subcontractors;

(5) Termination settlements; and

(6) Other professional services.

(c) In developing a profit or fee prenegotiation objective, the contracting officer shall comply with the requirements in FAR 15.903.

(d) When profit analysis is required, any amount proposed by the prospective contractor for the cost of money for facilities capital allowable under FAR 31.205-10 shall be deducted from the prenegotiation cost base objective before calculating the profit objective.

(e) The cognizant HCA is responsible for establishing procedures to ensure compliance with this subpart.

## PART 3516—TYPES OF CONTRACTS

Sec.

3516.000 Scope of part.

### Subpart 3516.3—Cost-Reimbursement Contracts

3516.301 General.

3516.301-3 Limitations.

### Subpart 3516.6—Time-and-Materials, Labor-Hour, and Letter Contracts

3516.601 Time-and-materials contracts.

3516.603 Letter contracts.

3516.603-2 Application.

3516.603-3 Limitations.

3516.603-70 Information to be furnished when requesting authority to issue a letter contract.

3516.603-71 Approval for modifications to letter contracts.

AUTHORITY: 40 U.S.C. 486(c).

SOURCE: 55 FR 7650, Mar. 2, 1990, unless otherwise noted.

#### 3516.000 Scope of part.

This part implements and supplements FAR part 16. It provides Commission policies and procedures for preparation of determinations and findings authorizing use of cost-reimbursement contracts, and for use of time-and-materials and letter contracts.

### Subpart 3516.3—Cost-Reimbursement Contracts

#### 3516.301 General.

##### 3516.301-3 Limitations.

(c) The following format shall be used and executed by the contracting officer as the determination and findings authorizing the use of a cost-reimbursement contract:

PANAMA CANAL COMMISSION

Determination and Findings

*Authority to Use Cost-Reimbursement Contract*

I hereby find that:

(1) The (Bureau/Division name) proposes to contract with (name of proposed contractor) for (describe work, service, or product) (identify program or project). The estimated cost is (\$\_\_\_\_\_) (if contract is CPFF type, insert, ("plus a fixed fee of (\$\_\_\_\_\_) which is \_\_\_\_\_ percent of the estimated cost exclusive of fee").

(2) (Set forth facts and circumstances that show why it is impracticable to acquire supplies or services of the kind or quality required without the use of the proposed type of contract or why the proposed method of contracting is likely to be less costly than other methods.)

I hereby determine that:

On the basis of the above findings, it is impracticable to acquire supplies or services of the kind or quality required without the use of a (cost, cost-sharing, or cost-plus-a-fixed fee\*) type of contract, or the (cost, cost-sharing, or cost-plus-a-fixed fee\*) method of contracting is likely to be less costly than other methods.

Date \_\_\_\_\_

(Signature)

\*Contracting officer inserts appropriate type of contract.

The determination and findings for all cost-reimbursement and incentive/award fee type contracts shall be reviewed and approved by the HCA.

### Subpart 3516.6—Time-and-Materials, Labor-Hour, and Letter Contracts

#### 3516.601 Time-and-materials contracts.

(c) *Limitations.* The format prescribed in 3516.301-3(c) shall be used and executed by the contracting officer as the determination and findings authorizing the use of either a time-and-materials contract or a labor-hour contract, ex-

cept that in lieu of the final paragraph insert the following:

I hereby determine that:

On the basis of the above findings, no other type of contract will suitably serve for the acquisition of the required supplies or services.

#### 3516.603 Letter contracts.

##### 3516.603-2 Application.

(a) It is the policy of the Panama Canal Commission to refrain from issuing letter contracts. Exceptions to this policy will be permitted only in those cases in which all matters of a substantive nature, such as statements of work, delivery schedules, and general and special clauses have been resolved and agreed upon. Exceptions to this policy must be approved by the Administrator.

##### 3516.603-3 Limitations.

The cognizant HCA is designated to execute the prescribed determination that no other contract is suitable. However, if the cognizant HCA is to sign the letter contract as the contracting officer, the Procurement Executive shall execute the determination.

#### 3516.603-70 Information to be furnished when requesting authority to issue a letter contract.

The following information should be included by the contracting officer in any memorandum requesting approval to issue a letter contract:

(a) Name and address of proposed contractor.

(b) Location where contract is to be performed.

(c) Contract number, including modification number, if possible.

(d) Brief description of work and services to be performed.

(e) Performance or delivery schedule.

(f) Amount of letter contract.

(g) Estimated total amount of defined contract.

(h) Type of contract to be executed (fixed price, cost-reimbursement, etc.)

(i) Statement of the necessity and advantage to the Commission of the use of the proposed letter contract.

(j) Statement of the percentage of the estimated cost of the proposed acquisition that the obligation of funds represents. In those rare instances in which the obligation represents 50 percent or more of the proposed estimated cost of the acquisition, a justification for that obligation must be included describing the basis and necessity for the obligation (e.g., the contractor requires a large initial outlay of funds for major subcontract awards or an extensive purchase of materials to meet an urgent delivery requirement). In every case, documentation must ensure that the amount to be obligated is not in excess of an amount reasonably required to perform the work.

(k) Period of effectiveness of the proposed letter contract.

(l) Statement of any substantive matters that need to be resolved.

#### **3516.603-71 Approval for modifications to letter contracts.**

All letter contract modifications must be approved by the cognizant HCA responsible for the acquisition. Requests for authority to issue letter contract modifications shall be processed in the same manner as requests for authority to issue letter contracts and shall include the following:

(a) Name and address of the contractor.

(b) Description of work and services.

(c) Date original request was approved and approving official.

(d) Letter contract number and date issued.

(e) Complete justification as to why the letter contract cannot be defined at this time.

(f) Complete justification as to why the level of funding must be increased.

(g) Complete justification as to why the period of effectiveness is increased, if applicable.

(h) If the funding of letter contracts is to be increased to more than 50 percent of the estimated cost of the acquisition, the information required by 3516.603-70(j) must be included.

## **PART 3517—SPECIAL CONTRACTING METHODS**

### **Subpart 3517.2—Options**

Sec.

3517.200 Scope of subpart.

3517.203 Solicitations.

3517.204 Contracts.

3517.207 Exercise of options.

### **Subpart 3517.5—Interagency Acquisitions Under the Economy Act**

3517.500 Scope of subpart.

3517.501 Definitions.

3517.502 General.

3517.504 Ordering procedures.

AUTHORITY: 40 U.S.C. 486(c).

SOURCE: 55 FR 7651, Mar. 2, 1990, unless otherwise noted.

### **Subpart 3517.2—Options**

#### **3517.200 Scope of subpart.**

This subpart does not apply to contracts for services involving:

(a) Construction, alteration, or repair of real property;

(b) Architect-engineer services;

(c) Automatic data processing equipment systems; and

(d) Telecommunication equipment and services.

However, it does not preclude the use of options in those contracts.

#### **3517.203 Solicitations.**

(g)(2) The use of options for increased quantities of supplies or services which exceed 50 percent of the base quantity specified in the contract for a particular period shall be approved by the cognizant HCA prior to issuing the solicitation. In the case of supplies, the 50 percent limitation applies only to contracts which have a base quantity of more than one.

#### **3517.204 Contracts.**

(e) The use of option periods which, when combined with the base contract period, results in a total contract period of performance exceeding twelve months shall be approved by the cognizant HCA prior to issuing the solicitation. In no event, however, shall the total of the base and option periods exceed sixty (60) months in duration.